

6400

Testimony of Deborah Chernoff
Before the Human Services Committee
Public Hearing held February 5, 2009

*In Re: House Bill 6400 (AN ACT CONCERNING THE STRENGTHENING OF
NURSING HOME OVERSIGHT)*

Representative Walker, Senator Doyle and members of the Human Services Committee: My name is Deborah Chernoff. I am an Elected Organizer of the New England Health Care Employees Union, District 1199 and direct the research and communications departments for our union. 1199 represents 7,000 nursing home workers at 65 nursing homes in Connecticut. Our members include nurses, aides, housekeepers, dietary, laundry and maintenance workers. I also serve as a member of the Long Term Care Advisory Committee.

I am here to testify on Senate Bill 6400 (An Act Concerning the Strengthening of Nursing Home Oversight). As we have all seen, the precarious financial condition of too many Connecticut nursing homes continues to threaten the health and livelihoods of thousands of citizens who rely on those facilities and the caregivers who provide that care. There are currently ten nursing homes in state receivership, another five in bankruptcy and many teetering on the brink. Layoffs and hours cuts are widespread, causing staffing levels to decline. Hundreds of jobs, healthcare access for the frail elderly and in some cases, lives are on the line if we do not stabilize and supervise this critical industry.

On behalf of the 22,000 health care workers in our union, however, I would like to suggest that this bill and the others like it that seek to cure what ails our nursing homes by strengthening financial oversight are not fixing the fundamental problem. It's like patching the roof when it's the foundation that's crumbling. Effective financial oversight can't be accomplished in a vacuum. It is one piece of a complicated system; to make it work right, we have to change the system itself. After all, our mutual goal is not just to prevent nursing home operators from spending money unwisely or fraudulently; it must also be to encourage responsible operators to provide good care by spending money in the right way: on quality patient care.

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This is a long-standing and complicated issue but fortunately we already have a strong blueprint for reforming the costs of funding and the means of providing care in our skilled nursing care facilities.

In 2001, the General Assembly convened the Ad Hoc Task Force on Nursing Home Costs in Connecticut to address these issues. The Task Force was made up of representatives of all the key stakeholders: legislators, the for-profit and non-profit providers, our union, advocacy organizations, elder law attorneys and academic experts. The Task Force was chaired by Dr. Bruce Vladeck, a nationally-known expert on health care policy who served as Secretary of the Health Care Financing Authority (now known as CMS) under President Clinton.

That Task Force issued its final report in early 2002 with a number of comprehensive recommendations that would significantly improve the quality of care, ensure that state and federal dollars were spent appropriately, protect health care access for those who need it most and strengthen financial oversight. I have attached a complete copy of that report to my testimony, but let me summarize a few key points.

The Task Force determined that nursing home Medicaid reimbursement rates, as currently determined, **do not** reflect the actual costs of providing care. This is a key factor in the financial instability of many nursing homes.

To address that issue, the Task Force recommended that nursing homes should be reimbursed at **95% of actual, allowable costs for Direct Care and Indirect Care**. (Direct Care is, essentially, nursing and medical costs, including CNAs; Indirect Care covers support staff like dietary, laundry and housekeeping, supplies, food, etc.)

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The 5% "discount" would encourage facilities to contain costs, but would not punish higher-staffed facilities would not be punished financially for their higher labor costs or penalize higher-need facilities for their higher costs.

As in the bill before us today, to ensure that nursing homes are paid only for *actual allowable costs*, the State must strengthen its capacity to conduct detailed and frequent audits of reported costs. Bill 6400 contains several different strategies for ensuring stricter financial oversight.

To encourage facilities to maintain and improve the physical plant for residents, including critical infrastructure such as sewage, fire safety devices, or wheelchair access at older facilities, those costs should be considered as "Indirect Care" instead of "Administrative and General," so they will get reimbursed at a higher rate.

At the Griswold Health and Rehabilitation Center, (formerly Haven of Jewett City), physical plant improvements were not made for years, resulting in the current \$5 million estimate to fix the facility. Better reimbursement policies on essential repairs and physical maintenance (along with better enforcement) could have avoided the situation we find ourselves in now and in the past, where the cost of fixing the facility leads to closure. A packed public hearing on Tuesday, February 3 at the facility made it abundantly clear that closure of Griswold's only skilled nursing facility would be a devastating blow for the residents, their families, the staff and the town.

Any nursing home that is 90% or higher Medicaid should get additional "disproportionate share" reimbursements, modeled after the way the State currently reimburses hospitals, to make up for the fact that Medicaid pays the least of any payor source. Many of our in the bigger cities and distressed municipalities have very high Medicaid populations with no other payor source to offset the shortfall between reimbursement rates and the actual cost of care. This would also help maintain access to long-term care for the poor and their families, since they have few other options.

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Finally, to ensure quality care, the state should raise staffing standards to those recommended by NCCNHR (4.1 hours per patient day minimum, with ratios of staff-to-residents that vary by shift). The Task Force believed that making the suggested adjustments to the way in which nursing homes are reimbursed as listed above would make nursing home better able and more willing to pay for increased staffing.

In addition to copies of the Task Force report, I have attached to my testimony draft language that would incorporate the Task Force recommendations into a bill that takes a comprehensive, holistic approach to resolving nursing home issues, not as a "quick fix," but as a model for quality care now and in the future. I urge the Committee to take a serious look at the Task Force recommendations before quality care in our state is eroded further.

Thank you for your time today.

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DRAFT LANGUAGE
Proposed Bill No. #####

***AN ACT PROVIDING QUALITY CARE, FINANCIAL OVERSIGHT AND NURSING
HOME FUNDING REFORM IN CONNECTICUT***

Be it enacted by the Senate and House of Representatives in General Assembly
convened:

That the general statutes be amended to: (1) Implement the full findings and recommendations of the "Final Report", dated February 15, 2002, by the Ad Hoc Task Force on Nursing Home Costs in Connecticut; (2) Require pre-admission screening of all potential nursing home admissions by appropriately trained professionals independent of the nursing home to ensure that individuals with primarily psychiatric disabilities and/or a history of sexual abuse are not admitted to nursing homes; (3) Require nursing homes to meet or exceed the staffing ratio standards recommended by the National Citizens' Coalition for Nursing Home Reform (NCCNHR); (4) Ensure that quality of care standards in Connecticut's Nursing Homes are determined by the Department of Public Health based on best available clinical evidence and professional judgment, not on the basis of cost; (5) Reimburse nursing homes at 95% of actual costs of "direct care" and "indirect care" cost centers so that Medicaid reimbursements adequately reflect the actual costs of wages, benefits and staffing; (6) Make required reforms to the Medicaid reimbursement system to implement the full findings and recommendations in the Final Report by the Ad Hoc Task Force on Nursing Home Costs in Connecticut including shifting the "plant maintenance costs" to incorporate it into the "indirect care" cost center to encourage improvement and updates in the physical environment of nursing homes; (7) Provide supplemental disproportionate share payments equal to 5% of the total of other allowable costs, except property and capital, to Nursing Homes in which Medicaid patients account for more than 90% of patient days, in recognition of the greater costs to facilities of taking care of low-income persons and the fact that Medicaid rates are lower than those of any other payor; (8) Strengthening the state's audit capabilities to insure that only allowable costs are reimbursed by the state; (9) Increase financial support for training and recruitment of nurses, certified nursing assistants, therapists, and other health care professionals and paraprofessionals in order to address the current shortages in health personnel; (10) Require state-funded secondary and higher education institutions to expand their training programs for nursing and health services and expand state training programs to focus on creating better career opportunities for nursing aides.

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Statement of Purpose:

To ensure that Medicaid rates paid by the state to nursing homes adequately reflect the actual costs of providing care including wages, benefits and staffing, and that appropriate reforms are made to modernize staffing standards and the oversight of nursing homes.